

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of

Applicant : Don Carl Powell et al.  
Serial No : 10/039,517  
Filed : January 3, 2002  
Title : **SYSTEM AND DEVICE INCLUDING BARRIER LAYER**  
Docket : MIO 0059 V2  
Examiner : D. Le  
Art Unit : 2818  
Conf. No : 3647

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 3, 2003.

Susan M. Gima  
Agent

Reg. No. 38,769

Sir:

**RESPONSE TO OFFICE ACTION**

This paper is being filed in response to the Office Action mailed August 27, 2003. Reconsideration and reexamination are respectfully requested in light of the terminal disclaimer submitted herewith and the remarks below.

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REMARKS

Initially, applicants note that the Office Action summary sheet incorrectly indicates that claims 32-39 are allowed, and claims 40-42 are rejected, while the body of the Office Action indicates 32-39 are rejected, and claims 40-42 are allowed. Applicants believe that the body of the Office Action represents what the Examiner intended.

CLAIM REJECTIONS

In the Office Action, the Examiner rejected claims 32-39 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of applicants' parent U.S. Patent No. 6,410,968. Accordingly, submitted herewith is a properly executed terminal disclaimer which is believed to overcome the rejection.

Claims 40-42 have been indicated as being allowed.

Accordingly, applicants submit that the application is now in condition for allowance. Early notification of allowance is respectfully requested.

Applicants again request that the Examiner withdraw the 16-way species election requirement and examine all of the pending claims. In the event that the Examiner refuses to withdraw what applicants consider to be an unsupported and unreasonable requirement, applicants have concurrently filed a Petition to the Commissioner pursuant to 37 CFR §1.144 to review the requirement.

Respectfully submitted,  
DINSMORE & SHOHL LLP

By Susan M. Luna  
Susan M. Luna  
Registration No. 38,769

One Dayton Centre  
One South Main Street, Suite 500  
Dayton, Ohio 45402-2023  
(937) 223-2050  
Facsimile: (937) 223-0724